

RICHTERSVELD MUNICIPALITY

HUMAN RESOURCE POLICIES

4. LEGAL AID

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HUMAN RESOURCE POLICY**

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Approved Date: 02 July 2019

Council Resolution Nr: RVN006/07/2019

Effective Date: 01 July 2019

Review Date: 30 June 2020

THE POLICY

1. Preamble

2. Definitions

All terminology used in this policy shall bear the same meaning as in the applicable legislation.

3. Legal Framework

Municipal Systems Act 2000
Inquests Act 1959

This policy applies to all employees of the Richtersveld Municipality

4. Objectives of Policy

5. Policy Content

Whereas section 109 of the Richtersveld Municipality Systems Act 2000 permits a Municipality to provide a counselor or employee of the Richtersveld Municipality with legal representation arising out of the institution of legal action against as result of any act or omission by them in the exercise of their powers or the performance of their duties, the Council hereby adopts the following policy:

Whenever a claim is made or legal proceedings are instituted against any councilor or employee of the council arising out of any act or thing done or omitted by them in the exercise o there powers or the performance of their duties and functions, or whenever ant such councilor or employee as a consequence of their election as a counselor or employment with a council are compelled to give evidence in or to make a written statement for the purpose of an inquests Act, 1959 [Act 58 of 1959] the council-

- 1) Shall in the case of a civil claim or civil proceedings ,if it is the opinion that the councilor or employee concerned acted in good faith and without negligence indemnify them in respect of such claim or proceedings, and-

- i. shall provide for the legal representation of such councilor or employee at the cost of the council or undertake to pay their legal costs;
- ii. Shall pay any award by a court against them, and
- iii. May settle the claim and pay any amount due in terms of such settlement

Council must investigate the case, and then have a council resolution and according to that resolution, steps must be followed.

- 2) shall, in the case of criminal proceedings, if it is opinion the councilor or employee concerned acted in good faith and without negligence, indemnify them in respect of their legal costs therein or provide for their legal representation at the cost of the council and

- 3) may in case of criminal proceedings or an inquest Act 1959 if it is opinion that it is in the interest of the council to do so, indemnify the councilor or employee in respect of their legal costs therein or provide for their legal representation at the cost of the council;

Provided that the council may refuse to act in accordance with the forgoing provisions or may terminate any steps already by it and recover from the councilor or employee concerned any costs incurred by it on their behalf, if such councilor or employee-

- i. Has made an admission or statement which the council considers to be prejudicial to a successful; defense;
- ii. Has made any offer of payment or settlement
- iii. Declines to accept the services of a legal representative nominated by the council;
- iv. Fails or refuses to furnish such information as the council may require or furnishes false misleading information or
- v. Fails or refuses to cooperate with the council or to tender such assistance as may be required by the council.

For the purpose of this policy councilorship or employee includes a former or employee of the council.

Whenever any claim is or is proposed to be made of legal proceedings are or to be instituted by any councilor or employee of a council against any person in consequence of any act or thing done or omitted by such person and the councilor is of the opinion that-

- a. such act or thing was done or omitted in relation to or in consequence of the exercise and performance by such councilor or employee of his powers, duties and functions;
- b. such councilor or employee exercise and performed such powers, duties and functions in good faith and without negligence and
- c. such claim or proceedings has or have reasonable prospect of success, the council may indemnify such councilor or employee against all legal costs which may be or become payable by them

In the event of such claim or proceedings not being successful, provided that the council may withdraw any such indemnity and recover all payments made in terms thereof from such councilor or employee if they-

- i. took any action or did anything which in the opinion of the council is prejudicial to the success of such claim or proceeding;
- ii. failed or refuse furnish such information as the council may require or furnished false information, or
- iii. failed or refuse to cooperate with the council or render such assistance as may be required by the council.

Notwithstanding anything to the contrary contained herein, the Council shall refuse to grant legal aid to a councilor or employee in any action resulting from an act which constitutes or would constitute an infringement of the Codes of Conduct for Councilors and Richtersveld Municipality staff members contained in the Richtersveld Municipality Systems act, 2000

7. Implementation and Monitoring

This policy will be implemented once recommended by the labour forum

8. Communications

This policy will be communicated to all Richtersveld Municipality employees using full range of communication methods available to the Richtersveld Municipality.

9. Policy Review

This policy will be reviewed annually and revised as necessary

10. Budget and Resources

The financial and resource implications related to the implementation of this policy should be qualified and quantified. There must be a council resolution.

11. Roles and Responsibilities

The Richtersveld Municipality Manager or his/her delegate assignee accepts overall responsibility for the implementation and monitoring of the policy.

12. Penalties

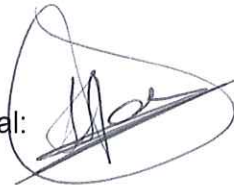
Non-compliance to any of the stipulations contained in this policy will be regarded as misconduct which will be dealt with in terms of the Disciplinary Code.

13. Dispute Resolutions

Any dispute resolutions from this policy due to ambiguous wording or phrasing must be referred to the local labour forum for adjudication. Resolution from the local labour forum must be incorporated into the policy.

14. AUTHORITY

MM Approval:



Date:

2019/08/01

Council Approval:

Date: